

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Clarence Bogan,	)	CASE NO. 1:10 CV 2491
	)	
Petitioner,	)	JUDGE PATRICIA A. GAUGHAN
	)	
vs.	)	
	)	
Donnie Morgan, Warden,	)	<u>Memorandum of Opinion and Order</u>
	)	
Respondent.	)	

This matter is before the Court upon the Report and Recommendation of Magistrate Judge William H. Baughman (Doc. 18) recommending dismissal of the Petition for Writ of *Habeas Corpus* pending before the Court. In light of this recommendation, the Magistrate Judge further recommends that petitioner's pending "motion seeking a ruling" on his petition (Doc. 16) be denied as moot. For the following reasons, the Report and Recommendation is ACCEPTED.

Petitioner, Clarence Bogan, commenced this action with the filing of a Petition for Writ of *Habeas Corpus* pursuant to 28 U.S.C. § 2254. The Magistrate Judge has issued a Report and Recommendation, recommending that the Petition be dismissed on the grounds that petitioner's claims are procedurally defaulted. Petitioner has not filed an objection to the Report and Recommendation.

### **Discussion**

Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts provides: “The judge must determine *de novo* any proposed finding or recommendation to which objection is made. The judge may accept, reject, or modify any proposed finding or recommendation.” However, when, as here, no objections to a Report and Recommendation have been filed, the Court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See* Advisory Committee Notes 1983 Addition to Federal Rule of Civil Procedure 72.

The Court has considered the Petition and the Report and Recommendation of the Magistrate Judge and finds no clear error on the face of the record. Accordingly, the Report and Recommendation of the Magistrate Judge recommending dismissal of petitioner’s claims on the grounds of procedural default is accepted. The Court further accepts the recommendation of the Magistrate Judge that petitioner’s motion seeking a ruling be denied as moot.

### **Conclusion**

For the reasons stated by the Magistrate Judge in the Report and Recommendation, the pending Petition for Writ of *Habeas Corpus* is dismissed. Petitioner’s motion seeking a ruling is denied as moot. The Court further determines, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed.R.App.P. 22(b).

IT IS SO ORDERED.

Dated: 8/29/12

/s/ Patricia A. Gaughan  
PATRICIA A. GAUGHAN  
United States District Judge